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Cc: []
From: CN=Tina Laidlaw/OU=MO/OU=R8/O=USEPA/C=US
Sent: Fri 1/21/2011 10:24:58 PM
Subject: Fw: Midwest Hg study

Tina Laidlaw
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----- Forwarded by Tina Laidlaw/MO/R8/USEPA/US on 01/21/2011 03:24 PM -----

From: Tina Laidlaw/MO/R8/USEPA/US
To: "Suplee, Mike" <msuplee@mt.gov>
Cc: "Mathieus, George" <gemathieus@mt.gov>
Date: 01/21/2011 03:20 PM
Subject: Re: Midwest Hg study

Mike,

I spoke with Dave Pfeifer from Region 5 EPA. He is sending me the language the Region had on the need to review each's facility variance request on a case by case basis. I'll forward it when I receive the document.

For clarification, Dave said that Wisconsin did not have a statute associated with their regulation language. And, the regulations dealing with the "phased" adaptive management options were permitting regulations and the Region did not act under them under 303(c). Also, for clarification, lagoons are not exempt from meeting the TP criteria - the language is intended to indicate to suggest that they are likely eligible for a variance.

We will continue to evaluate EPA's position on the use of categorical variances. I'll check with some other folks since I am by no means an expert in this area. And, the best thing will be for us to provide you and George with informal comments on any draft bill language so you are aware of any concerns we may have (or if we support it).

Can you remind me again of your deadline for the draft language? End of next week? early next week?

Thanks!

Tina

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From: "Suplee, Mike" <msuplee@mt.gov>
To: Tina Laidlaw/MO/R8/USEPA/US@EPA
Cc: "Mathieus, George" <gemathieus@mt.gov>
Date: 01/21/2011 11:51 AM
Subject: Midwest Hg study

Hi Tina;

This economic report is the sole basis for all the economic-impact mercury variances in Ohio, Indiana, and Michigan. The key part is found on the last two pages, where they contrast the cost of meeting the state's proposed Hg rule via a categorical variance (12 ng Hg/L) vs. meeting the water quality standard (1.3 ng/L). (12 ng Hg/L was achievable, but I am not sure where that finding is documented.) The report then explains that RO for Hg removal would cost from \$2-5/gallon-day, and RO vendors would not necessarily guarantee that they could meet 1.3 ng/L.

When you look over the various state rationale letters and documents discussing why the categorical variance was allowed, they ALL explain that it is due to the very high cost (substantial and widespread economic impact) of implementing an RO (or equivalent) system on Hg-permitted plants in the region.

I believe that we are, essentially, in a similar boat with meeting our nutrient standards: Cost for N and P removal gets very high as you move to low numbers, and the lowest treatment levels (those akin to meeting our water quality standards) cannot be consistently guaranteed by any of the currently-available technologies used on waste water plants, or can't be achieved at all for N. And Utah's recent study shows that removing nutrients to fairly low (but achievable) levels with mechanical plants induces cost in the same range that was considered too expensive for mercury (e.g., ~\$2/gallon-day; see page 3-14 of their report). So if that was economic hardship in the Midwest for Hg, why would it be any different for N and P in Montana?

I strongly encourage you to keep the categorical variance option open as a viable route towards implementing base numeric nutrient standards in MT. Categorical variance criteria can always be ratcheted down (as they have done in the Midwest over the past 12 years), there is always the 3 year re-justification requirement, and they do sunset in 20 years at which point the permittee would be expected to meet the base numeric nutrient standards. (And don't forget that the individual variance option will still be available.)

Thanks, Mike

[attachment "fosterwheelerreport.PDF" deleted by Tina Laidlaw/MO/R8/USEPA/US]